



# Insolvency Act 1986

## 1986 CHAPTER 45

### PART VIII

#### INDIVIDUAL VOLUNTARY ARRANGEMENTS

##### *Moratorium for insolvent debtor*

#### 252 Interim order of court.

- (1) In the circumstances specified below, the court may in the case of a debtor (being an individual) make an interim order under this section.
- (2) An interim order has the effect that, during the period for which it is in force—
  - (a) no bankruptcy petition relating to the debtor may be presented or proceeded with,
  - [<sup>F1</sup>(aa) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the debtor in respect of a failure by the debtor to comply with any term or condition of his tenancy of such premises, except with the leave of the court] and
  - (b) no other proceedings, and no execution or other legal process, may be commenced or continued [<sup>F2</sup>and no distress may be levied] against the debtor or his property except with leave of the court.

#### Textual Amendments

- F1** S. 252(2)(aa) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 2(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F2** Words in s. 252(2)(b) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 2(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

*Status: Point in time view as at 31/12/2020.*

*Changes to legislation: Insolvency Act 1986, Cross Heading: Moratorium for insolvent debtor is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 253 Application for interim order.

- (1) Application to the court for an interim order may be made where the debtor intends to make a proposal [<sup>F3</sup>under this Part, that is, a proposal] to his creditors for a composition in satisfaction of his debts or a scheme of arrangement of his affairs (from here on referred to, in either case, as a “voluntary arrangement”).
- (2) The proposal must provide for some person (“the nominee”) to act in relation to the voluntary arrangement either as trustee or otherwise for the purpose of supervising its implementation [<sup>F4</sup>and the nominee must be a person who is qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement].
- (3) Subject as follows, the application may be made—
  - (a) if the debtor is an undischarged bankrupt, by the debtor, the trustee of his estate, or the official receiver, and
  - (b) in any other case, by the debtor.
- (4) An application shall not be made under subsection (3)(a) unless the debtor has given notice of [<sup>F5</sup>the proposal] to the official receiver and, if there is one, the trustee of his estate.

<sup>F6</sup>(5) .....

### Textual Amendments

- F3** Words in s. 253(1) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 3(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F4** Words in s. 253(2) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 3(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F5** Words in s. 253(4) substituted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 3(c)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F6** S. 253(5) omitted (6.4.2016) by virtue of Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 19 para. 2**; S.I. 2016/191, art. 2 (with art. 3)

### Modifications etc. (not altering text)

- C1** S. 253 amended (1.12.2001) by 2000 c. 8, s. 357(1); S.I. 2001/3538, **art. 2(1)**

## 254 Effect of application.

- (1) At any time when an application under section 253 for an interim order is pending
  - [<sup>F7</sup>(a) no landlord or other person to whom rent is payable may exercise any right of forfeiture by peaceable re-entry in relation to premises let to the debtor in respect of a failure by the debtor to comply with any term or condition of his tenancy of such premises, except with the leave of the court, and
  - (b) , the court may [<sup>F8</sup>forbid the levying of any distress on the debtor’s property or its subsequent sale, or both, and] stay any action, execution or other legal process against the property or person of the debtor.
- (2) Any court in which proceedings are pending against an individual may, on proof that an application under that section has been made in respect of that individual, either stay the proceedings or allow them to continue on such terms as it thinks fit.

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#### Textual Amendments

- F7** S. 254(1)(a) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 4(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F8** Words in S. 254(1)(b) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 4(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

## 255 Cases in which interim order can be made.

- (1) The court shall not make an interim order on an application under section 253 unless it is satisfied—
- that the debtor intends to make [<sup>F9</sup>a proposal under this Part];
  - that on the day of the making of the application the debtor was an undischarged bankrupt or was able to [<sup>F10</sup>make a bankruptcy application] ;
  - that no previous application has been made by the debtor for an interim order in the period of 12 months ending with that day; and
  - that the nominee under the debtor's proposal <sup>F11</sup>. . . is willing to act in relation to the proposal.
- (2) The court may make an order if it thinks that it would be appropriate to do so for the purpose of facilitating the consideration and implementation of the debtor's proposal.
- (3) Where the debtor is an undischarged bankrupt, the interim order may contain provision as to the conduct of the bankruptcy, and the administration of the bankrupt's estate, during the period for which the order is in force.
- (4) Subject as follows, the provision contained in an interim order by virtue of subsection (3) may include provision staying proceedings in the bankruptcy or modifying any provision in this Group of Parts, and any provision of the rules in their application to the debtor's bankruptcy.
- (5) An interim order shall not, in relation to a bankrupt, make provision relaxing or removing any of the requirements of provisions in this Group of Parts, or of the rules, unless the court is satisfied that that provision is unlikely to result in any significant diminution in, or in the value of, the debtor's estate for the purposes of the bankruptcy.
- (6) Subject to the following provisions of this Part, an interim order made on an application under section 253 ceases to have effect at the end of the period of 14 days beginning with the day after the making of the order.

#### Textual Amendments

- F9** Words in s. 255(1)(a) substituted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 5(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F10** Words in s. 255(1)(b) substituted (6.4.2016) by Enterprise and Regulatory Reform Act 2013 (c. 24), s. 103(3), **Sch. 19 para. 3**; S.I. 2016/191, **art. 2** (with **art. 3**)
- F11** Words in s. 255(1)(d) repealed (1.1.2003) by 2000 c. 39, ss. 3, 15, **Sch. 3 paras. 5(b)**, **Sch. 5**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)

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## 256 Nominee's report on debtor's proposal.

- (1) Where an interim order has been made on an application under section 253, the nominee shall, before the order ceases to have effect, submit a report to the court stating—
- (a) [<sup>F12</sup>whether, in his opinion, the voluntary arrangement which the debtor is proposing has a reasonable prospect of being approved and implemented, [<sup>F13</sup>and]
  - (aa)] whether, in his opinion, [<sup>F14</sup>the debtor's creditors should] consider the debtors' proposal <sup>F15</sup>...
  - <sup>F16</sup>(b) .....
- (2) For the purpose of enabling the nominee to prepare his report the debtor shall submit to the nominee—
- (a) a document setting out the terms of the voluntary arrangement which the debtor is proposing, and
  - (b) a statement of his affairs containing—
    - (i) such particulars of his creditors and of his debts and other liabilities and of his assets as may be prescribed, and
    - (ii) such other information as may be prescribed.
- <sup>F17</sup>(3) The court may—
- (a) on an application made by the debtor in a case where the nominee has failed to submit the report required by this section or has died, or
  - (b) on an application made by the debtor or the nominee in a case where it is impracticable or inappropriate for the nominee to continue to act as such,
- direct that the nominee shall be replaced as such by another person qualified to act as an insolvency practitioner, or authorised to act as nominee, in relation to the voluntary arrangement.
- (3A) The court may, on an application made by the debtor in a case where the nominee has failed to submit the report required by this section, direct that the interim order shall continue, or (if it has ceased to have effect) be renewed, for such further period as the court may specify in the direction.]
- (4) The court may, on the application of the nominee, extend the period for which the interim order has effect so as to enable the nominee to have more time to prepare his report.
- (5) If the court is satisfied on receiving the nominee's report that [<sup>F18</sup>the debtor's creditors should] consider the debtor's proposal, the court shall direct that the period for which the interim order has effect shall be extended, for such further period as it may specify in the direction, for the purpose of enabling the debtor's proposal to be considered by his creditors in accordance with the following provisions of this Part.
- (6) The court may discharge the interim order if it is satisfied, on the application of the nominee—
- (a) that the debtor has failed to comply with his obligations under subsection (2), or
  - (b) that for any other reason it would be inappropriate for [<sup>F19</sup>the debtor's creditors] to consider the debtor's proposal.

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### Textual Amendments

- F12** Words in s. 256(1) inserted (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 6(a)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F13** Word in s. 256(1)(a) inserted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by **Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), Sch. 9 para. 61(2)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F14** Words in s. 256(1)(aa) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by **Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), Sch. 9 para. 61(3)(a)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F15** Word in s. 256(1)(aa) omitted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by virtue of **Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), Sch. 9 para. 61(3)(b)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F16** S. 256(1)(b) omitted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by virtue of **Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), Sch. 9 para. 61(4)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F17** S. 256(3)(3A) substituted for s. 256(3) (1.1.2003) by 2000 c. 39, s. 3, **Sch. 3 para. 6(b)**; S.I. 2002/2711, **art. 2** (subject to transitional provisions in **arts. 3-5**)
- F18** Words in s. 256(5) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by **Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), Sch. 9 para. 61(5)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)
- F19** Words in s. 256(6) substituted (26.5.2015 for specified purposes, 6.4.2017 for E.W. in so far as not already in force) by **Small Business, Enterprise and Employment Act 2015 (c. 26), s. 164(1), Sch. 9 para. 61(6)**; S.I. 2015/1329, reg. 3(d); S.I. 2016/1020, reg. 4(e) (with reg. 5) (as amended by S.I. 2017/363, reg. 3)

### Modifications etc. (not altering text)

- C2** Ss. 256–263 applied with modifications by S.I. 1986/1999, art. 3, **Sch. I Pt. III**

**Status:**

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**Changes to legislation:**

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